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UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

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IN RE:)	OPERATING ORDER 01-02
PROCEDURES FOR COMPLEX)	01 1201111110 010 1211 01 02
CHAPTER 11 CASES)	
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In order to facilitate the early stages of complex Chapter 11 cases, the court finds that there is a need to implement certain policies and procedures to better serve the public, the bar and the court.

These procedures will be applicable in all cases designated by the court as a "Complex Chapter 11 Case." The procedures include, but are not limited to, the following:

- 1. A party filing a Chapter 11 bankruptcy petition who believes that the case should be classified as a Complex Chapter 11 Case, shall file with the petition a Notice of Designation as Complex Chapter 11 Case.
- 2. Factors to be considered in determining to file a Notice of Designation as Complex Chapter 11

 Case must be addressed in the Notice for consideration by the Court and must include:
 - a. The need for "first day" emergency hearings or orders;
 - b. The size of the case, either in number of parties or amount of indebtedness (usually total debt of more than \$5 million or more than \$2 million in unsecured non-priority debt);
 - c. The need for simplification of noticing or hearing procedures.
- 3. A party who anticipates filing a petition and Notice of Designation as Complex Chapter 11 Case shall advise the Clerk of Court and the United States Trustee at least 24 hours in advance of the filing. When the documents are filed, they should have a fluorescent sheet of paper attached or some other device which is likely to draw special attention to the document.
- 4. When a party has filed a Chapter 11 petition and a Notice of Designation as Complex Chapter 11, the Clerk shall randomly assign the case to a Judge using the established case assignment system and shall immediately deliver the petition and all related documents to the Judge.
- 5. If the assigned Judge determines that the case does not qualify as a Complex Chapter 11 case, an order denying complex case treatment will be issued. If the assigned Judge determines that the

order denying complex case treatment will be issued. If the assigned Judge determines that the case qualifies as a Complex Chapter 11 Case, an initial order for Complex Chapter 11 case will be issued. That order will address:

- a. Hearings to be held within two business days of the filing of the petition and the filing and service of the necessary motions and notices, such as: preliminary hearings on the use of cash collateral, including motions to prohibit the use of cash collateral; preliminary hearings on motions for post-petition financing; motions to retain the existing pre-petition bank accounts of the debtor; motions to pay normal and necessary essential vendors.
- b. Hearings to be held within seven days of the petition and filing and service of the necessary motion and notice, such as: motions to allow outstanding checks to be honored; motions for the employment of debtor's primary counsel (motions to employ other professionals will be entertained during the life of the case); motions to pay employees; motions to establish utility deposits; motions to conduct an emergency sale of assets;
- c. Omnibus hearings to be held every two weeks following the filing of the petition, such as: any emergency motion filed, served and noticed, as long as it is in accordance with South Carolina Local Bankruptcy Rule 9014-1(e), and is filed, served and noticed at least seven business days prior to the date being used for the emergency hearing, unless otherwise ordered by the court.
- d. Final hearings on the foregoing matters and other matters as they may be scheduled and heard as the court deems appropriate.
- 6. The debtor may, within five days after the filing date of the petition, file and serve on all parties in the case a motion and notice, using the passive notice procedures of South Carolina Local Bankruptcy Rule 9014-2, to establish a shortened mailing list pursuant to Federal Rule of Bankruptcy Procedures 2002(I). The notice shall provide parties with the option of receiving notices via e-mail or by facsimile, pursuant to Federal Rule of Bankruptcy Procedure 9036 and in accordance with South Carolina Local Bankruptcy Rule 9036-1, in lieu of service by first class mail. The notice must clearly specify the options, the requirements for initiating electronic notice (see South Carolina Local Bankruptcy Rule 9036-1 and Public Notice 00-1), and the methods of service which the debtor and others will use should a party in interest fail to elect one of the available options.
- 7. Parties seeking emergency relief shall strictly comply with South Carolina Local Bankruptcy Rule

- 9014-1(e) and shall designate either the two-day notice date, the seven-day notice date or the two-week notice date as set forth in paragraph 5 above. Misuse of the expedited scheduling process may subject a party to sanctions.
- 8. The Court, in its initial order for Complex Chapter 11 Cases, will set a status conference to be held within six weeks of the filing of the petition, and following the meeting of creditors held pursuant to 11 US.C. §341. The status conference will be conducted pursuant to 11 U.S.C. §105(d) and may include issues addressed by the Court in its initial order for Complex Chapter 11 Cases, and may include other scheduling and procedural issues addressed by any other party in the case which files a motion entitled "Motion of Issues to be Heard at Status Conference" not later than 14 days prior to the date set for the initial status conference. Such a Motion will be served upon the United States Trustee, debtor's counsel, all secured creditors, the 20 largest unsecured creditors (or unsecured creditors' committee, if one is appointed), any existing official committees and any party requesting such notice.
- 9. In a case designated as a Complex Chapter 11 Case, the court may order a compensation and reimbursement of expenses schedule on a more frequent basis than is provided in South Carolina Local Bankruptcy Rule 2016-1.

AND IT IS SO ORDERED.

Wm. Thurmond Bishop, Chief Judge

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John E. Waites, Judge

Columbia, South Carolina

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